

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

TIMOTHY EDWARD MYERS #67139	§ § § § § § §	PETITIONER CIVIL ACTION NO. 1:02-CV-47DMR-JMR USCA No. 03-60857 RESPONDENT
VERSUS		
EMMITT SPARKMAN		

**ORDER DISMISSING RENEWED PETITION HEREIN AND ORDERING
THAT RENEWED PETITION AND PLEADINGS BE FILED IN NEW CIVIL ACTION**

BEFORE THE COURT is the “Renewed Petition for Writ of Habeas Corpus” filed by the Petitioner, Timothy Edward Myers, on March 21, 2008 [Doc. No. 41]. A Final Memorandum Opinion and Order and Final Judgment was entered in this cause on September 19, 2003 [Doc. Nos. 33 and 34, respectively]. Thereafter, on October 20, 2003, Petitioner Myers filed a Notice of Appeal [Doc. No. 35]. This Court denied the request for the issuance of a Certificate of Appealability on December 9, 2003 [Doc. No. 38], and the United States Court of Appeals for the Fifth Circuit entered its Judgment on March 18, 2004, denying the Petitioner’s request and motion for the issuance of a Certificate of Appealability [Doc. No. 39].

This Court has now reviewed the “Renewed Petition for Writ of Habeas Corpus” filed by the Petitioner, Timothy Edward Myers [Doc. No. 41], and his allegations regarding the status of his claims and “mixed” petition. Accordingly, it is the opinion of this Court, that the more proper and prudent course would be for the renewed petition filed in this cause to be dismissed without prejudice and, along with the Petitioner’s Memorandum in Support [Doc. No. 42] and Record Excerpts [Doc. No. 43], be filed by the U. S. Clerk as a new petition and pleadings in a new civil action with a filing date of March 21, 2008.

IT IS, THEREFORE, ORDERED AND ADJUDGED the “Renewed Petition for Writ of Habeas Corpus” filed by the Petitioner, Timothy Edward Myers [Doc. No. 41], be and is hereby **DISMISSED WITHOUT PREJUDICE** from this cause of action.

IT IS FURTHER ORDERED AND ADJUDGED that the “Renewed Petition for Writ of Habeas Corpus” filed by the Petitioner, Timothy Edward Myers [Doc. No. 41], as well as the Petitioner’s Memorandum in Support [Doc. No. 42] and Record Excerpts [Doc. No. 43], be filed by the U. S. Clerk as a new petition and pleadings in a new civil action with a filing date of **March 21, 2008.**

SO ORDERED AND ADJUDGED this the 27th day of March, 2008.

S/ DAN M. RUSSELL, JR.
DAN M. RUSSELL, JR.
UNITED STATES DISTRICT JUDGE